



10-15-07

ATTORNEY DOCKET: 40526.10001
PATENT

IFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Patent application of:
Stephen B. Maguire

Group Art Unit: 1723

Serial No.: 10/066,338

Examiner:
David L. Sorkin

Filed: January 31, 2002

For: LIQUID COLOR PUMPING METHOD AND
SUPPLY APPARATUS

Charles N. Quinn
Reg. No. 27,223
Fox Rothschild LLP
2000 Market Street, 10th Floor
Philadelphia, PA 19103
Tel: 215-299-2135
Fax: 215-299-2150
Email: cquinn@foxrothschild.com
Deposit Account: 50-1943
USPTO Customer No. 34,661

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SECOND PETITION TO ACKNOWLEDGE CLAIM OF PRIORITY

Sir:

SUMMARY

The priority claim for this application has never been acknowledged by the United States Patent and Trademark Office.

Applicant made four requests, on March 12, 2002, May 9, 2005, July 27, 2005 and October 19, 2005, to the examiner, to have the priority claim for this application properly entered into the record. Additionally, applicant also filed a Petition To Accept Claim of Priority on June 28, 2006.

To date, no response to either June 28, 2006 petition or any of the prior requests has been received. **The Office is respectfully requested to respond to this second petition, in particular in light of the recent issuance of the Notice of Allowance for this application.**

DETAILED FACTUAL BACKGROUND

January 31, 2002

Applicant filed this patent application, without a signed inventor's declaration and without a fee.

March 12, 2002

Applicant submitted the signed inventor's declaration. The signed declaration consisted of three pages and contained a claim of priority to provisional application number 60/265,347 as required by 35 U.S.C. 119 and 37 C.F.R. 1.78

May 24, 2004

In the examiner's action of November 9, 2004, the examiner refused to enter applicant's May 25, 2004 amendment to the specification to include the claim of priority. The examiner believed that the record of the United States Patent and Trademark Office did not reflect that the claim of priority was included with applicant's submission on March 12, 2002, in the declaration provided in response to the Notification of Missing parts. The examiner contended that the official record indicated that only two pages of the declaration, pages 1 and 3, were on file with the Office, and not the middle page (page 2) that contained the claim of priority.

In applicant's May 9, 2005 response to the November 9, 2004 official action, applicant provided; 1) a copy of the complete declaration with pages 1, 2 and 3 being included, 2) a copy of the return postcard for applicant's March 12, 2002 response clearly reciting that the three page declaration was received by the Office, and 3) a copy of the corresponding proof of mailing of the March 12, 2002 response (that had included the signed declaration).

In applicant's May 9, 2005 response, applicant requested that the examiner indicate that the error resulting from the Office missing page 2 of the declaration was not due to applicant's failure to provide the claim of priority within the time frame required by 37 C.F.R. §1.78. Additionally, applicant requested that the examiner accord this application the benefit of the claim of priority to United States provisional application serial number 60/265,347 and to amend the specification accordingly.

In the official action bearing a mailing date of May 24, 2005, which was sent in reply to applicant's May 9, 2005 response, the examiner was silent regarding the claim of priority and the request to accordingly amend the application.

Letters of inquiry were sent on July 27, 2005 and October 19, 2005 requesting the examiner reply to applicant's claim of priority. However, as of the date of this petition, no reply to those letters has been received.

Accordingly, applicant submitted a Petition to Accept Claim of Priority concurrently with a Petition to Revive A Presumably Abandoned Application on

June 28, 2006. The Petition to Revive has been granted, while the Office has remained silent on the petition to enter the claim of priority.

PRAYER FOR RELIEF

Applicant submits that the implicit and explicit rejection of applicant's claim of priority to United States provisional application no. 60/265,347 filed January 31, 2001 is in error and hereby petitions the Office to enter the claim of priority into this application.

Therefore, applicant again submits the following Exhibits and arguments in support of applicant's claim of priority.

- Exhibit 1: A copy of the Completion of Filing Requirements—Nonprovisional Application, as submitted on March 12, 2002 and bearing the mailing certification under 37 C.F.R. §1.8 clearly showing the mailing date of March 12, 2002;
- Exhibit 2: A copy of the three-page declaration submitted as an attachment to the document listed as Exhibit 1 on March 12, 2002; and
- Exhibit 3: A copy of the return postcard for the documents listed as Exhibits 1 and 2 above, with the official receipt stamp indicating receipt by the United States Patent and Trademark Office on March 20, 2002 of the submissions dated March 12, 2002, including specifically the "Declaration of Stephen B. Maguire (3 pages)."

37 C.F.R. §1.78(a)(5) states that "Any non provisional *application* or international *application* designating the United States of America claiming the benefit of one or more prior-filed provisional applications must contain or be

amended to contain a reference to each such prior-filed provisional application, identifying it by the provisional application number (consisting of series code and serial number)” (emphasis added).

37 C.F.R. §1.78(a)(5)(ii) goes on to state “This reference must be submitted during the pendency of the later-filed application. If the later filed application is an application under 35 U.S.C. §111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed provisional application.”

Since a complete “application” as defined by 37 C.F.R. §1.51 specifically contains the oath [see 37 C.F.R. §1.51(b)(2)], applicant submits that the reference to the prior-filed provisional application was made in the application within the time frame required under 37 C.F.R. §1.78(a)(5)(ii) under the mailing requirements of 37 C.F.R. §1.8, as supported by Exhibits 1, 2 and 3.

Accordingly, applicant requests that the application be accorded the benefit of the claim of priority to United States provisional application serial number 60/265,347 filed January 31, 2001, and that the request to amend the specification to contain the reference to the prior-filed provisional application be accepted.

FEES

Applicant does not believe any fees should be required for this petition due to the fact that the delay in entering the claim of priority was not due to any error by applicant. However, to the extent there is any fee required in connection

with the receipt, acceptance and/or consideration of this paper, please charge all such fees to Deposit Account 50-1943.

Respectfully submitted,

Date: 12 Oct 2007



CHARLES N. QUINN
Registration No. 27,223
Attorney for Applicant

Fox Rothschild, LLP
2000 Market Street, 10th Floor
Philadelphia, PA 19103
Tel: 215-299-2135
Fax: 215-299-2150
email: cquinn@foxrothschild.com

Certificate of Mailing Under 37 C.F.R. 1.10	
EXPRESS MAIL NO.:	EV334306699US
<small>I hereby certify that this paper, along with any paper referred to as being attached or enclosed and/or fee is being deposited with the United States Postal Service, "Express Mail - Post Office to Addressee" service under 37 C.F.R. 1.10, on the date indicated below, and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.</small>	
<u>Oct. 12, 2007</u> Date of Deposit	<u>Beth Palmerchuck</u> Signature <u>Beth Palmerchuck</u> Type or print name of person

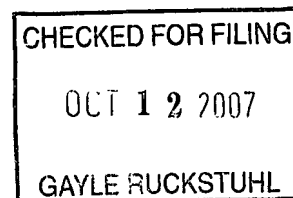


EXHIBIT “1”

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Maguire, Stephen B.

Application No.: 10/066,338

Filed: January 31, 2002

For: LIQUID COLOR PUMPING

METHOD AND SUPPLY APPARATUS

Group No.: 1723

Examiner: TBA

Box Missing Part

Assistant Commissioner for Patents

Washington, D.C. 20231

COMPLETION OF FILING REQUIREMENTS
-- NONPROVISIONAL APPLICATION

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional)

I hereby certify that, on the date shown below, this correspondence is being:

☒ deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner of Patents, Washington D.C. 20231
37 C.F.R. 1.10
☒ with sufficient postage as first class mail.

MAILING

☐ as "Express Mail Post Office to Addressee" Mailing Label
No. _____
37 C.F.R. 1.10

☐ facsimile transmitted to the Patent and Trademark Office, 703 _____
TRANSMISSION

Date: March 12, 2002

Sherry Barrag
Signature

Sherry BARRAG
Type or print name of person certifying

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

I. This replies to the Notice to File Missing Parts of Application (PTO-1533) mailed February 28, 2002.

A copy of the Notice to File Missing Parts of Application--Filing Date Granted (Form PTO-1533) is enclosed.

DECLARATION OR OATH

II. No declaration or oath was filed. Enclosed is the original declaration or oath for this application, which declaration was executed on February 4, 2002, before the identification of the serial number of this application.

FORMAL DRAWINGS

III. Formal drawings for this application were dispatched to the U.S. Patent and Trademark Office on March 1, 2002. However, for the Office's convenience, a duplicate set of drawings of nine (9) sheets comprising Figures 1-8 are submitted herewith.

SMALL ENTITY STATUS

IV. Applicant claims small entity status under 37 C.F.R. 1.127.

COMPLETION FEES

V.

1. Filing Fee

Original patent application
(37 C.F.R. Section 1.16(a))

\$370.00

2. Fees for Claims

Each independent claim in excess of 3

(37 C.F.R. Section 1.16(b))	\$336.00
Each claim in excess of 20	
(37 C.F.R. Section 1.16(c))	\$423.00

3. Surcharge Fees

Late payment of filing fee and/or late filing of original declaration or oath (37 C.F.R. Section 1.16(e))	\$65.00
--	---------

Total Completion Fees \$1,194.00

EXTENSION OF TIME

VI. The proceedings herein are for a patent application, and the provisions of 37 C.F.R. Section 1.136(a) apply.

Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

TOTAL FEE DUE

VII. The total fee due is:

Completion fees	\$1,194.00
Extension fee (if any)	\$0.00
Total Fee Due	\$1,194.00

PAYMENT OF FEES

VIII. Enclosed is a check in the amount of 1,194.00.

Please charge Account No. 50-1943 for any fees that may be due by this paper.

Date: 12 March 02



Charles N. Quinn
Registration No. 27,223
Fox, Rothschild, O'Brien & Frankel, LLP
2000 Market Street, 10th Floor
Philadelphia, PA 19103
215-299-2135

EXHIBIT “2”

COMBINED DECLARATION AND POWER OF ATTORNEY

**(ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL, DIVISIONAL,
CONTINUATION, OR C-I-P)**

As a below named inventor, I hereby declare that:

TYPE OF DECLARATION

This declaration is for an original application.

INVENTORSHIP IDENTIFICATION

My residence, post office address and citizenship are as stated below, next to my name. I believe that I am the original, first and sole inventor of the subject matter that is claimed, and for which a patent is sought on the invention entitled:

TITLE OF INVENTION

LIQUID COLOR PUMPING METHOD AND SUPPLY APPARATUS

SPECIFICATION IDENTIFICATION

The specification was filed on January 31, 2002; the serial number has not yet been received.

ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information, which is material to patentability as defined in 37, Code of Federal Regulations, Section 1.56.

PRIORITY CLAIM (35 U.S.C. Section 119(a)-(d))

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

No such applications have been filed.

CLAIM FOR BENEFIT OF PRIOR U.S. PROVISIONAL APPLICATION(S)
(35 U.S.C. Section 119(e))

I hereby claim the benefit under Title 35, United States Code, Section 119(e) of any United States provisional application(s) listed below:

PROVISIONAL APPLICATION NUMBER

60/265,347

FILING DATE

January 31, 2001

POWER OF ATTORNEY

I hereby appoint the following practitioners to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

APPOINTED PRACTITIONERS

Charles N. Quinn

John P. Blasko

REGISTRATION NUMBERS

27,223

31,149

I hereby appoint the practitioners associated with the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

SEND CORRESPONDENCE TO

Charles N. Quinn, Esquire
2000 Market Street
Philadelphia, PA 19103

DIRECT TELEPHONE CALLS TO:

Charles N. Quinn, Esquire
215-299-2137

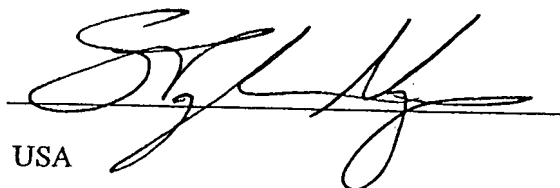
DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

SIGNATURES

Stephen B. Maguire, Inventor

Inventor's signature



Date 2/4/02

Country of Citizenship USA

Residence Glen Mills, PA

Post Office Address 1549 E. Street Road, Glen Mills, PA 19342 USA

EXHIBIT “3”

Docket No.: 40526.10001

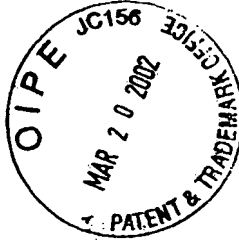
In re: Patent application of
Stephen B. Maguire
Serial No.: 10/066,338
Filed: January 31, 2002
For: LIQUID COLOR PUMPING METHOD
AND SUPPLY APPARATUS

The following items were received by the PTO:

Completion of Filing Requirements;
Copy of Notice to File Missing Parts;
Declaration of Stephen B. Maguire (3 pages)
Nine (9) pages of formal drawings comprising
Figures 1-8
Check in the amount of \$1,194.00

.....
The PTO is respectfully requested to place its STAMP on the POSTAL CARD and place it in the
outgoing mail.

Charles N. Quinn
Reg. No. 27, 223
Date: March 12, 2002



PH2 96204v1 03/12/02